

REMARKS

This is intended as a full and complete response to the Office Action dated March 4, 2009, having a shortened statutory period for response set to expire on June 4, 2009. Applicants respectfully request entry and consideration of the above noted amendments and the following remarks in response to the Office Action.

CLAIM REJECTIONS:

Claims 1-7 and 11-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,849,573 (*Kaeding*) in view of EP 0921181 (*Fina*).

Kaeding teaches catalytically converting methanol to light olefins with zeolites having high silica to alumina ratios for high conversion. *See*, Abstract. In contrast, *Dath* teaches converting C₄ or greater olefins into lighter olefins. *See*, Abstract. However, while the Final Office Action acknowledges that *Kaeding* “does not disclose the particulars of steaming and extracting aluminum from the catalyst”, the Action does state that “it would have been obvious to one having ordinary skill in the art that the disclosure of Kaeding...would have included...de[al]uminating the catalyst...as evidenced by EP reference”. Applicants respectfully disagree.

“While the Supreme Court of the United States has recently rejected a formalistic and rigid application of the teaching, suggestion, or motivation test as an exclusive test in the obviousness inquiry, it nevertheless made clear that an invention ‘composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.’ *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). The Supreme Court elucidated on this matter by stating that ‘it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine elements in the way the claimed new invention does.’ *Id.*”

Applicants respectfully submit that the motivation identified in the Office Action is not sufficient motivation to combine the catalyst taught in *Fina* for the catalyst in the process of *Kaeding*. The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification. *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984.) The references of record do not provide a motivation to replace the catalyst in

Kaeding (for a methanol to propylene conversion process) with the catalyst of *Fina* (used for a C₄₊ olefin conversion process to propylene). Furthermore, Applicants respectfully submit that the teachings of *Fina* lack a firm basis to predict the effect of the proposed interchange (*see, Ex parte Koo*, 150 U.S.P.Q. 131 (Bd. Pat. App. 1965) at 132) and therefore cannot reasonably be combined to render the claims of the present application obvious. Accordingly, Applicants respectfully request withdrawal of the rejection.

In conclusion, Applicants submit that the references cited in the Office Action, neither alone nor in combination, teach, show, or suggest the claimed features. Having addressed all issues set out in the Office Action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request the same.

Respectfully submitted,


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